

# CENTER FOR CIVIL JUSTICE

320 South Washington, 2nd Floor

Saginaw, Michigan 48607

Voice: (989) 755-3120 Fax: (989) 755-3558

*Fighting poverty through advocacy, education, and empowerment.*

## **Testimony to the House Committee on Family and Children Services**

**HB 5438-5446**

---

**November 30, 2005**

Chairman Stahl and members of the committee, my name is Jackie Doig and I am a senior staff attorney with the Center for Civil Justice (CCJ), a non-profit law firm representing low income clients in a 14-county region of mid-Michigan and the Thumb, including the urban areas of Saginaw, Flint, and Bay City, as well as surrounding rural areas such as Isabella and Clare counties.

In addition to our direct legal representation of low income individuals and families, CCJ meets regularly and works closely with private, non-profit human services providers throughout our service area, including faith-based organizations and the myriad of other agencies that work to assist parents who are trying hard to maximize their potential for self-sufficiency, and that also attempt to fill the gaps when low income families lack the resources to make ends meet. We also have been active in the Coalition for Independence Through Education (CFITE), a coalition of educators, student parents, and advocates seeking to improve access to higher education for low income parents.

### **Introduction**

I would like to start out by saying that we are pleased that the legislature is focusing attention on the need to improve Michigan's Work First and Family Independence Programs. We know that the legislators who participated in the Welfare Reform Work Group and those who have sponsored these bills are motivated by a desire to help low income parents find and keep jobs that can support their families rather than cycling through short-term, low wage jobs that force them to depend on public assistance.

We are concerned, however, some provisions in the bills could undermine these worthy goals and be harmful to the very families that these bills seek to help.

Before I turn to the specifics of the bill, I also would like to note that we are very concerned that the positive goals of the legislation will not be achieved because many of the resources that are needed to deliver services that are critical to the success of the changes in these bills simply do not exist, and funds have not been budgeted to pay for them. Without adequate staffing in the agencies that run these programs and without the educational and counseling resources that are need to remove the barriers low income families face, the promise of this legislation will be unfulfilled.

It takes time to develop the type of social worker-client relationship that will allow recipients to place their trust in DHS and Work First personnel, and to enable caseworkers to accurately identify the issues and barriers faced by many of the hard-to-serve families that are receiving FIP in Michigan. But DHS caseworkers and Work First case managers are faced with ever-increasing caseloads and responsibilities. In many cases, barriers to work exist because existing programs are resources are not available to meet the families' needs – from mental health counseling and substance abuse, to adult education or literacy training for adults with learning disabilities.

We also are concerned that the legislation fails to assign ultimate responsibility for various functions to one Department or the other (i.e. DHS or DLEG). In many instances, it is unclear which agency is expected to take the lead and to be accountable for the tasks assigned in this legislation. The opportunity for confusion is almost inevitable when two separate agencies share day-to-day responsibility for running a complicated program. Multi-agency operation of the program will continue to create ongoing risks for duplication, gaps, contradictory decisions, miscommunication and general confusion for workers and participants alike. It also makes it difficult to monitor the program and assure accountability.

## **Positive Developments in the Legislation**

---

We are pleased that the legislation includes provisions that :

**Require Department of Human Services (DHS) and the Work First contractor to identify barriers** that prevent participation in Work First and to thoroughly assess recipients' needs and abilities in order to develop an appropriate Personal Development Plan. *HB 5438 amending MCLA 400.57f(2), HB 5444 amending MCLA 400.57e(1).*

- It is important that families not be forced to fail before their barriers and needs are identified.

**Require the DHS and the Work First contractor to work with each other and with the recipient in developing and revising the family's Personal Development Plan .** *HB 5444 amending MCLA 400.57d(1) & (5) and 400.57e(1).*

- The need for ongoing communication and coordination between DLEG/Work First and DHS is just as critical at the individual client or case management level as it is at the local agency and state department levels.
- The recipient's involvement and "buy in" to the Plan also is critical to the success of any plan for maximizing a family's self-sufficiency.

**Recognize the need to encourage and assist recipients who wish to pursue education, training, or other work-related activities in spite of the fact that they are exempt from mandatory participation in Work First.** *HB 5438 adding MCLA 400.57f(6).*

- This is especially critical for recipients with disability-related barriers, who are entitled to reasonable accommodations in Michigan's assistance programs and rules under Americans with Disabilities Act.

**Encourage and support education and training as an important part of efforts to achieve family self-sufficiency.** *HB 5438 amending MCLA 400.57f(2).*

- We have some suggestions for assuring that education and training are tailored to the individual needs of the recipient, rather than taking a one-size-fits all approach.

## Suggested improvements

---

In order to ensure that these positive aspects of the legislation produce the best results, we suggest the following improvements:

### **Issues involving the most appropriate assignments and services in the Personal Development Plan should be resolved up front.**

- Require the Department to establish an appeal process for resolving disputes about the appropriate goals, activities, and services to be included in a recipient's Personal Development Plan, so that problems can be resolved before the recipient becomes non-compliant and the family's well-being is placed at risk because of sanctions.

### **DHS and Work First agencies need flexibility and discretion in order to obtain best results in education assignments**

- **Arbitrary time limits should not be applied to parents who are not able to attend education or training for the maximum number of hours allowed.** Limits of 6 months or two years make little sense for parents who, because of work or family obligations, or other circumstances, are unable to attend school or training for the maximum number of hours allowed. For example, a parent who is enrolled in a two year degree program at a community college may have work or family demands, or limited student financial aid, that enable her to attend only part-time, meaning that it will take three or four years to get even an associate's degree. It makes little sense to force such a parent to drop out before she achieves her goal, as long as she is making satisfactory progress toward her degree.
- **Eliminate the arbitrary 180 day limits on basic education, literacy classes, and GED preparation programs.** Many of the recipients currently being served by Work First providers have reading levels below the fifth grade level. In order to be able to successfully prepare for the GED exam, these parents need to be reading at least at the ninth grade level - meaning a necessary gain of 4 or more grade levels - a goal that is nearly impossible to achieve in 180 days. Furthermore, national studies, as well as information from local Work First providers and literacy programs, suggest that a high percentage of the parents on assistance have undiagnosed learning disabilities which may make progress in education and literacy much slower than for students who do not have disabilities. Work First and DHS should be given the flexibility to allow basic, remedial, and secondary education for as long as is necessary to assist parents in obtaining the skills and credentials to find and keep work. Parents who are meeting requirements for attendance and achievement in their classes should not be subject to arbitrary time limits that do not take into account their individual circumstances.

- **Eliminate the 180 day limit on vocational training.** Many of the vocational certificate programs offered at Michigan's community colleges require 2 full semesters of course work – examples include Environmental technology (28 – 31 credit hours), Medical transcription (25 credit hours), Practical nurse (46-50 credit hours), Dental assisting (48 credit hours), Computer applications (29 credit hours), Computer network technology (31-33 credit hours), Computer PC Systems support (24 credit hours).
- **Allow study time to be counted toward hourly participation requirements.** Current boilerplate in the Department of Labor and Economic Growth appropriations act allows 1 hour of study time to be counted for every hour of class time in post-secondary training or education. Although we realize that some education programs may require less homework and study time than a college degree program, Work First and DHS should have the flexibility to count study time as appropriate to the program being pursued by the recipient.
- **Allow flexibility for assigning parents to secondary education programs when the individual's circumstances or local economic conditions make this appropriate.** Recipients who lack a high school diploma or GED often are unable to find and keep the kinds of jobs that will enable them to become permanently self-sufficient or begin working their way up a "job ladder". When unemployment rates are high, employers often will not hire employees without a high school degree or GED for even the most basic, entry level jobs. In some cases it makes good sense to assign parents to GED preparation or adult education without regard to the number of hours that they are working.

## Family Independence Program benefits should not be time limited

---

**We strongly oppose the provisions in HB 5438 and HB 5445 that would impose a 48-month limit on receipt of FIP benefits.** *HB 5438 amending 400.57a(4) & (5) and HB 5445 adding MCLA 400.57m.* Although it is not entirely clear from the language of the bill, it appears that HB 5438 is intended to “stop the clock” from running in months in which the recipient is exempt from Work First. It also appears that the bills conflict regarding the manner in which time limits would be applied to families that have been on assistance prior to the new time limits. HB 5445 seems to suggest that no months prior to January 2006 would count toward the 48 month limit (recipients would start with a “clean slate”), while HB 5438 seems to suggest that all months prior to enactment of the bill would count, regardless of the individual’s circumstances in those months (*i.e.* regardless of whether s/he was exempt from Work First during those months). If time limits are to be applied, these issues must be resolved.

**It is illogical to terminate families from assistance simply because of the length of time that they have received benefits.** Because Michigan has stringent work requirements and immediate full family sanctions for families that are not cooperating with Work First requirements, the only families that receive assistance for extended periods of time in Michigan are those that face barriers which exempt them from work requirements or prevent them from working their way off assistance.

In Michigan, as in other states, the **characteristics of families that receive cash assistance for the greatest number of months** are not surprising. They are **more likely to have:**

- **a parent who does not have a high school diploma,**
- **a parent whose reading ability is below the fifth grade level,**
- **a larger number of children (and thus qualify for assistance longer even while working),**
- **a child with health, learning, or emotional problems,**
- **a parent with poor health.**

**It makes little sense to punish families that remain on welfare because of health problems or disabilities, or who are working but unable to earn enough to work their way off of assistance. Similarly, it makes little or no sense to punish families in which the parent has been unable to obtain a high school diploma or GED because of restrictive policies that have prevented parents from attending basic, remedial, or secondary education unless they are able to find and retain a job at the same time.** As any Work First contractor will tell you, parents with educational deficits have been caught in a Catch-22 situation: they cannot find and keep jobs because of their lack of skills and credentials – and, because boilerplate language and policies have prohibited education except for those

who are not also working 10 -20 hours per week, they cannot get the basic skills and credentials that they need to find and keep a job.

**Time limits combined with a poor economy put families at significant risk.** Nationally, the percentage of families that left cash assistance and had no income from work (either their own or from a spouse) increased from 9.8 percent in 1999 to 13.8 percent in 2002, as families started to hit time limits and the economy declined. These “disconnected” families were much more likely to have health problems, a child receiving SSI disability benefits, no high school diploma or GED, and a poor work history. Their dire economic circumstances increase their chances of being homeless, suffering from poor nutrition or hunger, and moving between school districts.

While most states (40) impose time limits of some kind, they also use exemptions to stop the clock on time limits, or extensions to increase the number of months of assistance that families can receive. **The majority of states (35) impose a 60 month time limit, reflecting the limit on the use of federal TANF funds.** However, because federal law allows the state to extend federally-funded assistance for up to 20% of its caseload, **all states that impose time limits also allow for at least some exemptions or extensions.**

**It makes little sense to change the earned income disregard as a work incentive while at the same time imposing new lifetime limits on receiving FIP, unless the time limit clock is stopped in months that the family has earned income.** By changing the earned income disregard from \$200 plus 20percent of the remainder to 50 percent of total earnings, HB 5442 allows families with higher earnings (more than \$533 per month) to receive FIP for a longer period of time. (Because less income is counted in determining FIP eligibility and grant amounts, families must earn more before they “work their way off” of cash assistance.) With time limits, however, this may be less a blessing than a curse. If families know that any months they receive cash assistance are counting against their lifetime limit, they may forego the cash assistance grant that they need to make ends meet now, for fear that they will not qualify for help if their work hours are cut or they become unemployed in the future. Several states do not count months in which parents are working while receiving assistance, or provide extended months of eligibility for working families, as a work incentive.

Proponents of time limits argue that recipients’ awareness of time limits will motivate them to be more successful at obtaining and retaining employment. However, in addition to the fact that the families who stay on welfare for longer periods are those that have the greatest barriers to success in this endeavors, researchers have found that 40% of the parents receiving time limited welfare benefits either are unaware that the time limits exist or do not know how much longer they will be eligible to receive assistance. Half of the parents with two or more barriers to employment do not have accurate information about time limits.

**In the event that the legislature feels compelled to impose time limits, the legislation should allow the maximum number of months for which federal funding is available (60 months) and also include appropriate exemptions and extensions to protect vulnerable children in families that require assistance for extended periods in spite of their willingness to cooperate with Work First, and should assure that months of assistance received before the legislation is enacted will not count against time limits.<sup>1</sup>** Any bill that includes time limits should provide explicit exemptions (stop the clock) and extensions (additional months of eligibility) for months in which the parent is

- **exempt from Work First requirements**
- **cooperating with Work First and receiving earned income<sup>2</sup>**
- **a minor<sup>3</sup>**
- **experiencing domestic violence that interferes with his or her ability to engage in Work First activities<sup>4</sup>**
- **cooperating but unable to find a job<sup>5</sup>**
- **unemployed or underemployed due to barriers, or not job ready<sup>6</sup>**
- **unemployed due to high local unemployment<sup>7</sup>**
- **in drug treatment<sup>8</sup>**
- **attending approved education or training<sup>9</sup>**
- **in mental health treatment<sup>10</sup>**

Exemptions should also be available for any FIP groups that consist entirely of minor children. Many of these children have been placed with family members in order to avoid the disruption and cost of foster care. Federal law allows federal funds to be continued to children without any time limit.

---

<sup>1</sup> This appears to be the intent of HB 5445. HB 5438, on the other hand, appears to count all months of assistance received prior to January 2006, without regard to whether the recipient was exempt from Work First, working, or in other circumstances that should stop the clock. Although HB 5438 allows an additional 12 months of eligibility for those who have received assistance for 48 months, it does not provide for additional months of eligibility for families that have received between 36 and 48 months, and who thus would have fewer than 12 months of eligibility left if all previous months of receipt are counted.

<sup>2</sup> Employment is a basis for an extension in nine states and an exemption in seven states. Some states require a specific number of hours of work.

<sup>3</sup> Sixteen states exempt months in which the parent is a minor.

<sup>4</sup> Thirty-seven states provide extensions for victims of domestic violence and their families; fourteen states exempt months in which the family experiences domestic violence.

<sup>5</sup> Twenty-two states provide extensions for families that are unable to find employment although they are cooperating.

<sup>6</sup> Thirteen states provide extensions for families in which the parent has been determined to be unemployed or underemployed, or not job ready, through no fault of their own.

<sup>7</sup> Ten states provide extensions for families when there is high local unemployment, two provide exemptions.

<sup>8</sup> Nine states provide extensions to families in which the Parent is undergoing drug treatment, one state provides an exemption.

<sup>9</sup> Seven states provide extensions for families in approved education, two states provide exemptions.

<sup>10</sup> Three states provide extensions for families in which the parent is undergoing treatment for mental illness.



## Harsher Sanctions Should Not Be Mandated

---

DHS already has authority under current state law to increase the sanctions imposed for non-compliance with work or Work First if or when the Department determines that increased sanctions will assist the Department in achieving its objectives. Increased sanctions should not be mandated by the legislature, particularly in connection with non-work activities under the Family Independence Plan.

At the present time, there is no indication that imposing harsher sanctions would increase Michigan's ability to help more families achieve self-sufficiency. Michigan already imposes some of the harshest penalties in the country for non-compliance, especially for first-time non-compliance. There is no evidence that families remain on cash assistance because of non-compliance with work first requirements. Indeed, Work First providers and DHS caseworkers alike identify the poor economy and barriers (such as lack of literacy and basic math proficiency, marketable skills, reliable transportation, reliable child care, domestic violence, and physical, mental, cognitive or learning disabilities) as the real reasons that families are not becoming self-sufficient and are recycling through the Work First program after short term jobs.

The current welfare proposals include positive approaches to identifying and removing these barriers to self-sufficiency. This approach – combined with existing sanctions for non-compliance– and the potential threat of time limits, if enacted – should be tested using the existing sanction process. More punitive and harmful measures should be considered only if the positive approaches prove to be ineffective.

The best way to improve the effectiveness of the current sanction process is to ensure that sanctions and good cause determinations occur in a consistent, fair, and timely manner. Consistent with the requirements in HB 5438 that DHS and Work First providers meet with the client to collaboratively develop the Personal Development Plan, the legislation should be amended to require communication and collaboration among DHS, Work First, and the recipient when issues of non-compliance arise. This not only will ensure that sanctions are imposed when appropriate, but also and that new -- or previously unidentified -- barriers will be identified and addressed. It is important that DHS and Work First providers stay focused on helping families succeed, rather than on punishing them.

The proposal to reduce benefits to families by an hourly amount for time missed at Work First assignments would be extremely costly and difficult implement. Furthermore, because nay reduction in benefits would likely not occur until two months after the recipient was tardy or missed an appointment, it is not likely to result in greater compliance with Work First requirements.

## Families should not be forced to use a member's SSI benefits to support the entire family

---

It appears that HB 5439, amending MCLA 400.57b(3), is intended to require DHS to count all SSI benefits received by any member of a household. This assumes that the SSI benefits are fully available to be used for the needs of all family members – an assumption that simply is not correct. When a parent receives SSI benefits on behalf of a child, federal law requires that the parent use the benefits only for the needs of that child. Paying for clothing, transportation, food, or other items for other family members would be an unlawful misuse of the SSI funds and could result in the parent being forced to repay the SSI benefits to the Social Security Administration. However, if the SSI is counted as income to the entire family for the Family Independence Program, parents will be caught in a Catch 22 because most families will lose their eligibility for FIP.<sup>11</sup> In addition, of course, families in which a parent or a child receive SSI disability benefits frequently are families in which the parent is unable to work to supplement the income received from SSI – either because of their own disability or the special needs of a disabled child.

SSI benefits are intended to be used to meet the expenses of the individual recipient. Thus, when a family member is an SSI recipient, FIP is not provided for that member (for example, a family with one child on SSI, one other child and a parent would receive a FIP grant for only 2 persons – not 3). SSI is needed to pay for the higher expenses of persons with disabilities, which may include higher transportation costs associated with the need for larger or customized vehicles, higher utility expenses associated with medical equipment or devices and/or the increased need for a temperature-controlled environment, expenses for special clothing, higher costs for handicap-accessible or other special housing needs, etc.

We urge you not to require DHS to count SSI when determining a family's FIP eligibility or benefit amount.

## Conclusion

---

Thank you for the opportunity to testify, I would be glad to answer any questions you may have.

---

<sup>11</sup> The current SSI grant amount is \$579 per month – well over the grant amount for all 3-person and most 4-person families on FIP.

## Sources and resources:

Fremstad, Recent Welfare Reform Research Findings: Implications for TANF Reauthorization and State TANF Policies, (Center on Budget and Policy Priorities, January 30, 2004)

Loprest, Disconnected Welfare Leavers Face Serious Risks, (Urban Institute, August 2003).

from Work, Welfare, and Other Sources of Economic Support

Michigan Department of Human Resources, DIT/DHS Data Warehouse Team, TANF Case Profile (January 2005)

Rowe & Versteeg, Welfare Reform Databook: State TANF Policies as of July 2003 (The Urban Institute, April 2005); [http://www.urban.org/UploadedPDF/411183\\_WRD\\_2003.pdf](http://www.urban.org/UploadedPDF/411183_WRD_2003.pdf)

Schott, Ways That States Can Serve Families That Reach Welfare Time Limits (Center of Budget and Policy Priorities, June 21, 2000); <http://www.cbpp.org/6-21-00wel.pdf>

Seefeldt & Orzol, Watching the Clock Tick: Factors Associated with TANF Accumulation

Turner, Danziger, & Seefeldt, Failing the Transition from Welfare to Work: Women Disconnected

Zedlewski & Holland, How Much Do Welfare Recipients Know About Time Limits? (Urban Institute, November 2003)

**Amend MCLA 400.57g(4) (b) as follows:**

(b) For any instance of noncompliance, before determining that a penalty shall be imposed, the **DEPARTMENT OF HUMAN SERVICES** shall determine if good cause for noncompliance exists, **IN ACCORDANCE WITH R 400.3607 OF THE MICHIGAN ADMINISTRATIVE CODE. EMPLOYMENT, TRAINING, AND OTHER SERVICES SHALL CONTINUE UNDER THE PERSONAL DEVELOPMENT PLAN UNTIL A GOOD CAUSE DETERMINATION IS MADE.**

The **DEPARTMENT** ~~family independence agency~~ shall notify the recipient **IN WRITING** that he or she has 10 days to demonstrate good cause for noncompliance **AND SHALL MAKE REASONABLE EFFORTS TO CONSULT WITH THE CLIENT IN PERSON OR BY TELEPHONE TO IDENTIFY THE REASONS FOR THE CLIENT'S NON-COMPLIANCE, WHICH SHALL BE RECORDED IN THE CLIENT'S RECORD. BEFORE DETERMINING THAT GOOD CAUSE EXISTS, THE DEPARTMENT SHALL**

**(1) CONSULT WITH THE EMPLOYMENT AND TRAINING AGENCY AND, IF POSSIBLE, WITH ANY OTHERS PROVIDING SERVICES UNDER THE INDIVIDUAL'S SOCIAL CONTRACT,**

**(2) REVIEW THE INDIVIDUAL'S ATTENDANCE RECORD FOR ASSIGNED ACTIVITIES, INCLUDING EXCUSED ABSENCES,**

**(3) REVIEW THE CIRCUMSTANCES OF ANY PRIOR NONCOMPLIANCE OR GOOD CAUSE DETERMINATIONS FOR THE INDIVIDUAL,**

**(4) PROVIDE THE INDIVIDUAL WITH AN OPPORTUNITY TO BE SCREENED FOR DISABILITY-BASED BARRIERS, DOMESTIC VIOLENCE, AND SUBSTANCE ABUSE AND WHEN APPROPRIATE TO BE REFERRED FOR FURTHER ASSESSMENT,**

**(5) REVIEW THE INDIVIDUAL'S PERSONAL RESPONSIBILITY PLAN TO DETERMINE WHETHER SERVICES WERE IN FACT PROVIDED TO THE INDIVIDUAL AND THE FAMILY TO ADDRESS GOOD CAUSE ISSUES OR BARRIERS TO COMPLIANCE. AND MAKE ANY NECESSARY CHANGES IN THE PERSONAL RESPONSIBILITY PLAN TO ADDRESS NEWLY-IDENTIFIED BARRIERS OR ISSUES.**

If good cause is not determined to exist, assistance shall be terminated. After termination, the assistance group is ineligible for family independence program assistance for not less than 1 calendar month.